

2003 ANNUAL REPORT



LAWYERS' FUND FOR CLIENT PROTECTION OF THE BAR OF DELAWARE

820 N. FRENCH STREET, 11TH FLOOR
WILMINGTON, DELAWARE 19801

**ANNUAL REPORT OF THE TRUSTEES OF THE LAWYERS' FUND FOR CLIENT
PROTECTION OF THE BAR OF DELAWARE TO THE SUPREME COURT
PURSUANT TO SUPREME COURT RULE 66(c)(ii)**

The Trustees of the Lawyers' Fund for Client Protection (LFCP) hereby make the following report to the Supreme Court for the year ended December 31, 2003.

(1) Claims

The chart below summarizes the claims data for the period.

Lawyer	Pending 12/31/02		New Filed		Paid		Approved*		Denied		Withdrawn		Pending 12/31/03	
	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount
ADJ			12	1,291,925	5	464,560		106,000		166,916			7	554,449
AW			1	24,000					1	24,000			0	0
AWL			1	1,500	1	1,500							0	0
CHJ	8	122,914	1	13,640	3	3,492			4	118,022			2	15,040
GWL			1	600									1	600
HJR			1	1,250					1	1,250			0	0
KJD			7	70,707	4	14,992			1	18,715			2	37,000
OJE			1	10,500					1	10,500			0	0
SS	1	1,210	1	0					2	1,210			0	0
WAJ			1	1,450							1	1,450	0	0
Totals	9	124,124	27	1,415,572	13	484,544	0	106,000	10	340,613	1	1,450	12	607,089

* Not paid at report date.

Of the ten lawyers listed above, five are suspended and two are disbarred (one of the disbarred is in prison). Most have been guilty, to a greater or lesser degree, of violations of Rule 1.15 of the Delaware Lawyers' Rules of Professional Conduct (Recordkeeping). The most serious claims were filed against attorney "ADJ" (Daniel J. Anker) with \$1,291,925 in claims filed in 2003 and \$570,560 in claims paid and approved to be paid in 2003. The attorney and his bookkeeper/daughter have been indicted. The LFCP expects to recover some of the monies from the receivership. Anker's Receiver, Richard A. Forsten, Esquire, has been of great assistance to the Trustees in investigating and processing the claims and recovering funds. The Trustees and Associate Trustees have been putting in numerous volunteer hours on these claims.

(2) Compliance Audits

Sixty lawyers and law firms, selected at random, are scheduled to be audited in 2004. In addition to random audits, lawyers are sometimes referred for audit by the Office of Disciplinary

Counsel (ODC). Audits may also be performed on the books and records of lawyers who were found to be non-compliant on their Certificates of Compliance. The Certificates of Compliance are reviewed every year by Court personnel and by the LFCP auditor, Martin Zukoff, CPA.

The books and records of lawyers selected for audit will be examined by the LFCP Auditor in order to determine compliance with Rule 1.15 of the Delaware Lawyers' Rules of Professional Conduct. Lawyers found to be non-compliant are automatically reported to ODC as required by Supreme Court Rule 66(c)(i)(10)(c). If a re-audit is required, the cost of the re-audit becomes the responsibility of the non-compliant attorney pursuant to Regulation V.4. of the LFCP.

Of the 58 lawyers and law firms randomly audited in 2003, 81% were found to be in compliance and 19% were not in compliance and were reported to ODC. In addition, there were fifteen follow-up audits; one audit as a result of a lawyer's reporting non-compliance on his Certificate of Compliance; one Rule 1.15A audit; and five investigative audits (requested by ODC). A total of eighty compliance audits were performed in 2003.

As always, Mr. Zukoff is available to answer questions and to provide assistance to lawyers who are having problems with their recordkeeping.

(3) Changes to DLRPC Rule 1.15, Supreme Court Rule 73, Certificate of Compliance, and Audit Program

The Trustees approved amendments proposed by ODC and Martin Zukoff to certain rules and requirements pertaining to Lawyer Trust Accounts, and the Court ordered the changes effective January 1, 2004. The changes require the tightening of outstanding check procedures involving old outstanding trust and escrow account checks. The Court also approved additional wording on the 2004 Certificate of Compliance to require attorneys to submit documentation as evidence of notification to their banks to designate their escrow/trust accounts as Rule. 1.15A accounts. The LFCP office is in the process of verifying that all attorneys have submitted this documentation.

Attached to this report, is the Supreme Court's order of December 10, 2003. The rule changes can also be viewed on the LFCP website - <http://courts.state.de.us/lfcip>.

4) Financial Statements

Attached hereto are the LFCP financial statements for the year ended December 31, 2003, showing Net Assets of \$1,577,781. The decrease in Net Assets of \$406,208 was due to an

abnormally high claims expense of \$590,544. As mentioned, the LFCP expects to recover funds from Anker Receiver, Richard A. Forsten, Esquire. The LFCP also expects to recover funds due to the hard work of Robert E. Carey Receivers, Julianne E. Hammond, Esquire and Cathy L. Reese, Esquire (numerous claims were paid on Mr. Carey's behalf several years ago).

The Trustees review on a regular basis the investment policies and performance of the LFCP with representatives of Wilmington Trust Company which manages the LFCP's investment. The basic investment strategy of the LFCP remains the same: To keep the funds invested in a conservative balance of equities (25%) and fixed income securities (75%) so as to preserve the Fund's assets.

(5) Change of Address

On December 11, 2003, the "Arms of the Court" relocated their offices to the Carvel State Office Building, 820 N. French Street, 11th floor, Wilmington, Delaware 19801. Besides the LFCP, the "Arms of the Court" includes the Board of Bar Examiners, the Commission on Continuing Legal Education, and the Office of Disciplinary Counsel. All are now located on the same floor as the Supreme Court.

(6) Board of Trustees

The terms of Trustees Richard E. Poole and James D. Griffin expired in early 2004. Mr. Poole was appointed to a second term. Mr. Griffin elected not to serve a second term. The Trustees are grateful to Mr. Griffin for his conscientious work on behalf of the LFCP. Dennis L. Schrader was appointed to succeed Mr. Griffin.

Supreme Court liaison, the Honorable Myron T. Steele, was replaced by the Honorable Jack B. Jacobs. The Trustees wish to thank Justice Steele for his interest and dedication and to welcome Justice Jacobs, who has already demonstrated his commitment to the LFCP.

Associate Trustee John J. Quinn, III was appointed to a second term. Elizabeth Y. Olsen and Lorraine K. Phillips were appointed as Associate Trustees, thereby filling two vacancies on the Board.

Unfortunately, Lorraine "Lori" Phillips passed away suddenly on April 18, 2004. The Trustees grieve her loss. Lori dedicated many hours to public service and was a tremendous asset to the Lawyers' Fund. In addition to the Lawyers' Fund, Lori spent many hours on pro bono matters and volunteered for the Commission for Women, Sussex Housing Group, Delaware Housing Coalition and the Sussex Community Crisis Housing Services. Lori was a tireless

advocate for the less fortunate and it was that drive that made her such a committed Associate Trustee investigating claims on behalf of individuals alleging loss due to attorney misconduct.

Currently, the following persons serve on the Board of Trustees:

<u>Trustees</u>		<u>Expiration Date</u>
Felice Glennon Kerr (Chair)	Lawyer member	12/7/04
Ronald W. Truitt, CPA (Treasurer)	Public member	4/16/06
Richard E. Poole (Secretary)	Lawyer member	1/13/08
Edward B. Carter, Jr. (Asst. Secretary)	Lawyer member	2/19/05
Thomas I. Barrows	Lawyer member	11/27/06
William D. Fletcher, Jr.	Lawyer member	11/28/06
Dr. Patricia Patten-Hoge	Public member	9/9/05
Joseph A. Rosenthal	Lawyer member	2/19/05
Dennis L. Schrader	Lawyer member	1/13/08

Associate Trustees

Teresa A. Cheek	12/5/06
Francis J. Jones, Jr.	12/5/06
Elizabeth Y. Olsen	6/2/07
John J. Quinn, III, Esquire	5/18/07
VACANCY	

Supreme Court Liaisons

The Honorable Jack B. Jacobs
Stephen D. Taylor, Supreme Court Administrator

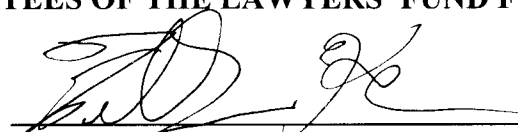
Office of Disciplinary Counsel Liaison

Mary Susan Much, Esquire

Respectfully submitted,

TRUSTEES OF THE LAWYERS' FUND FOR CLIENT PROTECTION

By:


FELICE GLENNON KERR, CHAIR

Dated: May 17, 2004



LAWYERS' FUND FOR CLIENT PROTECTION

FINANCIAL STATEMENTS

DECEMBER 31, 2003 AND 2002

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LAWYERS' FUND FOR CLIENT PROTECTION
STATEMENT OF FINANCIAL POSITION
DECEMBER 31, 2003 and 2002

Assets	<u>2003</u>	<u>2002</u>
Cash	\$11,684	\$9,622
Accounts Receivable	14,597	13,957
Due from Supreme Court (NOTE 1)	9,282	5,253
Prepaid Expenses (NOTE 2)	7,004	3,559
Investments - At Market Value (NOTE 3)	1,629,223	1,933,952
Accrued Interest	11,506	16,885
Equipment - Net of Accum. Depreciation (NOTE 8)	579	855
Deposits	<u>500</u>	<u>500</u>
Total Assets	<u><u>\$1,684,375</u></u>	<u><u>\$1,984,583</u></u>
 Liabilities and Net Assets		
Accrued Payroll and Payroll Taxes	\$594	\$594
Claims Payable (Anker)	106,000	
Net Assets	<u>1,577,781</u>	<u>1,983,989</u>
Total Liabilities and Net Assets	<u><u>\$1,684,375</u></u>	<u><u>\$1,984,583</u></u>

See Notes to Financial Statements.

**LAWYERS' FUND FOR CLIENT PROTECTION
STATEMENT OF ACTIVITIES
FOR THE YEARS ENDED DECEMBER 31, 2003 and 2002**

	Operations		Investments		Total	
	2003	2002	2003	2002	2003	2002
Revenue						
Assessments	\$191,970	\$92,930			\$191,970	\$92,930
Interest and Dividends	809	1,305	\$73,555	\$78,499	74,364	79,804
Gain on Sale of Investments						
and Unrealized Appreciation (NOTE 4)			56,326	(85,522)	56,326	(85,522)
Recovery of Claims Expense	11,300				11,300	
Recovery of Audit Expense	11,596	31,012			11,596	31,012
Total Revenue	215,675	125,247	129,881	(7,023)	345,556	118,224
Expenses						
Claims (NOTES 5, 6 and 7)						
Audits - LFCP Auditor	590,544	26,150			590,544	26,150
Audits - Forensic	65,000	65,000			65,000	65,000
Payroll Expenses (NOTE 9)	43,647	35,133			43,647	35,133
Court Administrative Cost	20,822	12,822			20,822	12,822
Investment Management Fees	8,167				8,167	
Rent			6,489	6,231	6,489	6,231
Office Supplies and Expense	7,000	7,000			7,000	7,000
Dues and Subscriptions	1,259	3,053			1,259	3,053
Copier	200	200			200	200
Postage	885	1,129			885	1,129
Seminars	2,586	350			2,586	350
Telephone	4,889	10,161			4,889	10,161
Depreciation (NOTE 8)	276	506			276	506
Total Expenses	745,275	161,744	6,489	6,231	751,764	167,975
Change in Net Assets	(\$529,600)	(\$36,497)	\$123,392	(\$13,254)	(406,208)	(49,751)
Net Assets, Beginning of Period					1,983,989	2,033,740
Net Assets, End of Period					\$1,577,781	\$1,983,989

See Notes to Financial Statements.

LAWYERS' FUND FOR CLIENT PROTECTION
SUMMARY OF INVESTMENT ACTIVITY
FOR THE YEARS ENDED DECEMBER 31, 2003 AND 2002

	Wilmington Trust		Brandywine Fund		Total	
	2003	2002	2003	2002	2003	2002
Total Market Value - Beginning of Year	\$1,829,215	\$1,857,372	\$104,737	\$120,939	\$1,933,952	\$1,978,311
Additions to Fund						
Deposits	140,000	80,000			140,000	80,000
Interest and Dividends	78,934	78,394			78,934	78,394
Increase - Unrealized Appreciation						
(Decrease) Unrealized Loss (Net)	29,866	(69,388)	29,782	(16,202)	59,648	(85,590)
Gain (Loss) on Sale of Treasury Notes (Net)	(3,322)	68			(3,322)	68
Total	245,478	89,074	29,782	(16,202)	275,260	72,872
Reductions in Fund						
Withdrawals - Transfer to Checking Acct.	(573,500)	(111,000)			(573,500)	(111,000)
Investment Management Fees	(6,489)	(6,231)			(6,489)	(6,231)
Total	(579,989)	(117,231)			(579,989)	(117,231)
Net Addition (Reduction)	(334,511)	(28,157)	29,782	(16,202)	(304,729)	(44,359)
Total Market Value - End of Year	\$1,494,704	\$1,829,215	\$134,519	\$104,737	\$1,629,223	\$1,933,952

See Notes to Financial Statements.

**LAWYERS' FUND FOR CLIENT PROTECTION
STATEMENT OF CASH FLOWS
FOR THE YEARS ENDED DECEMBER 31, 2003 AND 2002**

	<u>2003</u>	<u>2002</u>
Cash Flow from Operating Activities		
Change in Net Assets	(\$406,208)	(\$49,751)
Add - Non-Cash Expense		
Depreciation	276	506
Write-off of Equipment		753
(Increase) Decrease in Assets		
Accounts Receivable	(640)	(12,407)
Due from Supreme Court	(4,029)	18,749
Prepaid Expenses	(3,445)	496
Investments at Market Value	304,729	44,359
Accrued interest Receivable	5,379	(105)
Increase in Liabilities		
Claims Payable	106,000	
Net Cash Flow from Operating Activities	<u>2,062</u>	<u>2,600</u>
Cash		
Net Increase	2,062	2,600
Balance, Beginning of Year	9,622	7,022
Balance, End of Year	<u><u>\$11,684</u></u>	<u><u>\$9,622</u></u>

See Notes to Financial Statements.

LAWYERS' FUND FOR CLIENT PROTECTION
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2003 and 2002

NOTE 1 - DUE FROM SUPREME COURT

The \$9,282 due from the Supreme Court consists of 2003 assessment income less expenses. In April the Court sent a check for \$140,000 to the LFCP (deposited to the Wilmington Trust investment account). These were the only funds received from the Court in 2003. The balance held by the Court is ear-marked for expenses paid by the Court, such as salary, rent, supplies, etc., for the months remaining in 2003.

NOTE 2 - PREPAID EXPENSES

The Supreme Court encumbers monies for rent, telephone, and Court administrative costs.

NOTE 3 - INVESTMENTS

Investments are stated at fair market value and consist of the following:

	C O S T	M A R K E T	
	2 0 0 3	2 0 0 3	2 0 0 2
Wilmington Trust:			
U.S. Gov't Notes, 1-5 years, avg. yield 4.79	\$1,056,197	\$1,075,432	\$1,545,482
Wilmington Large Cap Value Portfolio	344,702	321,533	249,715
Money Market Fund	107,797	107,797	44,075
Brandywine Fund	50,170	124,461	94,680
Total Investment	<u>\$1,558,866</u>	<u>\$1,629,223</u>	<u>\$1,933,952</u>
Percentage of equities to total investments		<u>27.4%</u>	<u>17.8%</u>

NOTE 4 - GAIN (LOSS) ON SALE OF INVESTMENTS AND UNREALIZED APPRECIATION (LOSSES)

	M O N T H	Y T D	
	2 0 0 3	2 0 0 3	2 0 0 2
Treasury Notes	\$1,502	(\$40,272)	\$38,112
Wilmington Large Cap Value Portfolio	17,729	66,818	(97,374)
Brandywine Fund	829	29,780	(26,260)
Net Gain (Loss)	<u>\$20,060</u>	<u>\$56,326</u>	<u>(\$85,522)</u>

NOTE 5 - CLAIMS EXPENSE

Claims expense to date includes the following:

	2 0 0 3	2 0 0 2
Anker, DJ	\$570,560	
Autman, WL	1,500	
Carey, RE		\$11,151
Childerston, HJ	3,492	10,249
Hillis, HF		2,850
Hiner, JR		1,900
Kulesza, JD	14,992	
	<u>\$590,544</u>	<u>\$26,150</u>

**LAWYERS' FUND FOR CLIENT PROTECTION
NOTES TO FINANCIAL STATEMENTS (Cont'd)
DECEMBER 31, 2003 AND 2002**

NOTE 6 - CLAIMS (Daniel J. Anker)

Although the Receiver for the law practice of Daniel Anker has Funds on hand, which could be used to reimburse the LFCP for claims paid in 2003, he indicated he will be using these funds to pay 2004 claims directly. Also, there is some uncertainty whether and when the Supreme Court will reimburse the LFCP for Anker claims. Therefore, no receivable (due from Receiver and/or due from Supreme Court) was recorded in 2003.

NOTE 7 - CLAIMS PENDING

Three claims in the amount of \$26,796 have been received in 2004 to date. No claims have been paid in 2004 to date. At 12/31/03, twelve claims were pending on behalf of clients of the following:

Daniel J. Anker (7 claims)	\$554,449
H. James Childerston (2 claims)	15,040
William L. Garrett, Jr. (1 claim)	600
Joseph D. Kulesza, Jr. (2 claims)	37,000
	<u>\$607,089</u>

NOTE 8 - EQUIPMENT AND DEPRECIATION

Depreciation is calculated on the straight-line basis over the estimated useful lives of the assets.

Equipment consists of the following:

Computer Equipment	<u>\$1,361</u>
Total Cost	\$1,361
Less: Accumulated Depreciation	<u>782</u>
Net	<u>\$579</u>

NOTE 9 - PAYROLL EXPENSE

Includes adjustment of \$4,172 for undercharge by the Court of October-December 2002. Also, the Court allocates the salary of the LFCP secretary among three arms of the Court at the office location; therefore, payroll expense does not reflect her entire salary.

**LAWYERS' FUND FOR CLIENT PROTECTION
CLAIMS**

	<u>2003</u>		<u>2002</u>		<u>2001</u>	
	<u>No.</u>	<u>\$</u>	<u>No.</u>	<u>\$</u>	<u>No.</u>	<u>\$</u>
Claims pending at beginning of year	9	\$124,124	39	\$71,531	9	\$93,714
New claims received	28	1,415,573	17	270,582	59	408,450
Total claims	37	1,539,697	56	342,113	68	502,164
Claims approved:						
Approved & paid	13	590,544	33	26,150	14	129,351
Approved subject to verification			3	573		
Total approved	13	590,544	36	26,723	14	129,351
Claims disapproved:						
Not compensable	10	155,828	10	170,002	10	190,335
Withdrawn	1	1,450	1	5,000	5	92,475
Incomplete	1	0				
Balances on partially-paid claims		184,786		16,264		18,472
Total disapproved	12	342,064	11	191,266	15	301,282
Total approved and disapproved	25	932,608	47	217,989	29	430,633
Claims pending at end of year	12	\$607,089	9	\$124,124	39	\$71,531
% of claims approved	35%	31%	64%	7%	20%	26%

THE SUPREME COURT OF THE STATE OF DELAWARE

ORDER AMENDING CERTAIN §
RULES AND REQUIREMENTS §
PERTAINING TO LAWYER §
TRUST ACCOUNT §

ORDER

This 10th day of December 2003, it appears to the Court that it is desirable to amend certain rules and requirements pertaining to lawyer trust accounts.

NOW, THEREFORE, IT IS ORDERED that the following changes shall become effective January 1, 2004:

(1) Rule 1.15(d)(9)(E) of the Delaware Lawyers' Rules of Professional Conduct shall be deleted in its entirety, and the following new Rule 1.15(d)(9)(E) shall be substituted in lieu thereof:

(E) If a check has been issued in an attempt to disburse funds, but remains outstanding (that is, the check has not cleared the trust or escrow bank account) six months or more from the date it was issued, a lawyer shall promptly take steps to contact the payee to determine the reason the check was not deposited by the payee, and shall issue a replacement check, as necessary and appropriate. With regard to abandoned or unclaimed trust funds, a lawyer shall comply with the requirements of Supreme Court Rule 73.

(2) Supreme Court Rule 73 shall be deleted in its entirety, and the following new Supreme Court Rule 73 shall be substituted in lieu thereof:

Rule 73. Abandoned or unclaimed trust funds held by attorneys.

When, for a continuous period of 5 years, an attorney's trust or escrow account contains trust or escrow funds, including funds held in the form of balances owed and funds for which disbursement has been attempted by issuing a check, which funds are either unidentifiable, unclaimed, or which are held for missing or unknown owners, the funds shall be deemed abandoned in accordance with the provisions of the Delaware escheats statute for unclaimed property, 12 Delaware C. Chapter 11. The attorney shall make reasonable efforts to identify and locate the beneficial owner of the abandoned funds. With regard to funds for which the attorney has issued a check which has remained outstanding for six months or more, the attorney shall comply with the procedures set forth in Rule 1.15(d)(9)(E) of the

Delaware Lawyers' Rules of Professional Conduct. The attorney shall then file an abandoned property report under 12 Del. C. Sec. 1199. If, 90 days after the filing of the report, the attorney is still unable to identify and locate the owner of the abandoned funds, the funds shall be paid to the State Escheator according to the provisions of the Escheats Statute.

(3) Paragraph 7(g) of Section 3 of the Delaware Supreme Court Annual Registration Statement, Certificate of Compliance, shall be re-designated as new paragraph 7(i):

(7(i)) If any attorney funds are in trust or escrow accounts to cover bank service charges, they are separately accounted for and the total is no more than \$500.

(4) Paragraph 7(g) of Section 3 of the Delaware Supreme Court Annual Registration Statement, Certificate of Compliance, is hereby adopted as follows:

(7)(g) If any checks have been issued in an attempt to disburse funds, but remain outstanding (that is, checks have not cleared the trust or escrow bank account) six months or more from the date the checks were issued, steps are promptly being taken to contact the payees to determine the reason the checks were not deposited, and replacement checks are being issued, as necessary and appropriate. NOTE: If no checks have remained outstanding for more than six months, answer "N/A."

(5) Regulation VII of the Regulations of the Trustees of the Lawyers' Fund for Client Protection shall be amended to delete Real Estate Funds Audit Objective B3 in its entirety. The following new Real Estate Funds Audit Objective B3 shall be substituted in lieu thereof:

Audit monthly bank reconciliations and review list of outstanding checks for those more than six months old. Inquire whether a good faith effort has been made to determine why these checks have not cleared the bank. Prepare listing of checks more than six months old and note reasons why they are still outstanding. **NOTE:** See Supreme Court Rule 73 for disposition of old, undeliverable fiduciary account outstanding checks.

(6) Regulation VII of the Regulations of the Trustees of the Lawyers' Fund for Client Protection shall be amended to delete Fiduciary Funds Audit Objective B3 in its entirety. The following new Fiduciary Funds Audit Objective B3 shall be substituted in lieu thereof:

Audit monthly bank reconciliations and review list of outstanding checks for those more than six months old. Inquire whether a good faith effort has been made to determine why these checks have not cleared the bank. Prepare listing of checks more than six months old and note reasons why they are still outstanding. **NOTE:** See Supreme Court Rule 73 for disposition of old, undeliverable fiduciary account outstanding checks.

(7) Paragraph 2 of Section 3 of the Delaware Supreme Court Annual Registration Statement, Certificate of Compliance, shall be amended as follows:

(2) All attorney trust or escrow bank accounts are maintained only in financial institutions that have agreed to comply with the requirements set forth in Rule 1.15A. Also, **all financial institutions have been notified in writing* that** each attorney trust or escrow account **has been designated** as “Rule 1.15A Attorney Trust Account” or “Rule 1.15A Attorney Escrow Account.”

*** YOU ARE REQUIRED TO ATTACH DOCUMENTATION TO THIS CERTIFICATE THAT YOU HAVE DESIGNATED EACH TRUST OR ESCROW ACCOUNT, LISTED ON THE “BANKING AND RECORDKEEPING” STATEMENT, AS A “RULE 1.15A” ACCOUNT WITH YOUR FINANCIAL INSTITUTION.**

(8) Paragraph 1 of Section 3 of the Delaware Supreme Court Annual Registration Statement, Banking and Recordkeeping, shall be amended as follows:

(1) List the names of all banks or other places in which you or your firm maintain accounts which an attorney or an employee of your firm may draw on **and/or has signature authority** and in which funds of clients or other persons not associated with your firm are placed, the title of each account, and the account number of each account. (This question relates to escrow accounts, **which include pooled escrow accounts, real estate accounts, and non-pooled escrow accounts, such as estate accounts, on which an attorney or an employee of your firm may draw on and/or has signature authority.**)

(9) Additionally, the 2004 Annual Registration Statement, Certificate of Compliance and Banking and Recordkeeping section shall exhibit the bold and highlighted text as it appears in this Order; and both documents shall contain beneath their respective titles the following sentence.

Highlighting signifies a change to this document.

(10) The Clerk of this Court is directed to transmit forthwith a certified copy of this Order to the clerk of each trial court in each county.

BY THE COURT:

Jack B. Jacobs
Justice

SECTION 3 (Cont'd): To be completed by lawyers engaged in the private practice of law in Delaware.

Name _____ Supreme Court ID # _____

2004 CERTIFICATE OF COMPLIANCE

Highlighting signifies a change to this document.

I am in compliance with the following specific requirements of the Delaware Lawyers' Rules of Professional Conduct. A "YES" answer indicates you are in compliance. A "NO" answer indicates you are not in compliance. If appropriate, you may answer "N/A" (not applicable).

YES/NO

- 1) A separate bank account, designated "Rule 1.15A Attorney Trust Account" or "Rule 1.15A Attorney Escrow Account," for bank identification purposes only, is used only for funds held in a fiduciary capacity. _____
- 2) All attorney trust or escrow bank accounts are maintained only in financial institutions that have agreed to comply with the requirements set forth in Rule 1.15A. Also, **all financial institutions have been notified in writing* that** each attorney trust or escrow account **has been designated** as "Rule 1.15A Attorney Trust Account" or "Rule 1.15A Attorney Escrow Account." _____

*** YOU ARE REQUIRED TO ATTACH DOCUMENTATION TO THIS CERTIFICATE THAT YOU HAVE DESIGNATED EACH TRUST OR ESCROW ACCOUNT, LISTED ON THE "BANKING AND RECORDKEEPING" STATEMENT, AS A "RULE 1.15A" ACCOUNT WITH YOUR FINANCIAL INSTITUTION.**

- 3) A separate bank account, designated "Attorney Business Account" or "Attorney Operating Account," is maintained for non-fiduciary funds. _____
- 4) Cash receipt and cash disbursement journals are maintained for each bank account for the recording of fiduciary and non-fiduciary transactions. **NOTE:** If using a manual system, transaction columns must be totaled and balanced each month. Answer "YES" only if transaction columns are totaled and balanced each month, otherwise, answer "NO". Computer system users answer "N/A". _____
- 5) If using a manual system, and a general ledger is not maintained, a reconciled monthly cash balance for each bank account is obtained by agreeing totals from the cash receipts and cash disbursement journals to the ending check register balance. **NOTE:** Since this reconciliation procedure is not required if using a computer accounting system, computer system users answer "N/A". _____
- 6) Check register balances for all bank accounts are reconciled monthly to bank statement balances. _____

SECTION 3 (Cont'd): To be completed by lawyers engaged in the private practice of law in Delaware.

Certificate of Compliance (Cont'd)**YES/NO**

7) With respect to trust or escrow accounts:

- a) A subsidiary ledger is maintained with a separate account for each client in which cash receipt and cash disbursement transactions and monthly balances are recorded. _____
- b) Monthly listings of client balances are prepared showing client name, balance, and the total of all client balances. **NOTE:** See (c) below if a negative balance appears on this listing. _____
- c) If, through error, any funds disbursed for a client have been in excess of funds received from that client, resulting in a negative client balance, a timely transfer was made from the operating or business account to cover the excess disbursement. **NOTE:** If there were no negative balances, answer "N/A". _____
- d) The reconciled end-of-month cash balance agrees with the total of the client balance listing. _____
- e) There are no unidentified client funds. _____
- f) If any funds, which should have been disbursed, have remained in the trust or escrow account for an unreasonable length of time, steps are being taken to determine proper disbursement. **NOTE:** If all funds were disbursed on a timely basis, answer "N/A." _____
- g) If any checks have been issued in an attempt to disburse funds, but remain outstanding (that is, checks have not cleared the trust or escrow bank account) six months or more from the date the checks were issued, steps are promptly being taken to contact the payees to determine the reason the checks were not deposited, and replacement checks are being issued, as necessary and appropriate. NOTE: If no checks have remained outstanding for more than six months, answer "N/A."** _____
- h) All earned fees are transferred to the attorney's operating or business account on a timely basis. **NOTE:** Earned fees left in trust or escrow accounts longer than necessary represents commingling of funds. _____
- i)** If any attorney funds are in trust or escrow accounts to cover bank service charges, they are separately accounted for and the total is no more than \$500. _____

8) If a separate bank account is maintained for real estate settlement transactions and client funds have been received but not disbursed, then:

- a) A monthly listing is prepared showing client name, balance, and total of all client balances. _____

SECTION 3 (Cont'd): To be completed by lawyers engaged in the private practice of law in Delaware.

Certificate of Compliance (Cont'd)**YES/NO**

- b) This total agrees with the reconciled cash balance. **NOTE:** Answer "N/A" if a separate real estate account is not used or all funds received are disbursed prior to the end of the month. _____
- 9) If any clients are required to pay some or all of the fee in advance of undertaking the representation (retainers), then:
- a) A written statement is provided to the client which states that the fee is refundable if not earned and, also, states the basis under which the fee shall be considered to have been earned. _____
- b) All unearned fees are retained in the trust or escrow account. _____
- c) A statement of fees earned, cost advances recovered and the balance of unearned fees is provided to the client when such funds are withdrawn from the trust or escrow account. **NOTE:** Answer "N/A" to (a) - (c) if retainers are not accepted. _____
- 10) All federal, state and local payroll, gross receipts and income taxes have been filed and paid on a timely basis. **NOTE:** If answering "NO", provide specific information on an attached letter, such as, which taxes were not filed or paid, the amounts of taxes due and the periods involved. _____

If any of the above items have been answered "NO," indicating non-compliance, you must attach a letter explaining the reasons for the non-compliance, and the date you will be in compliance. Make certain to provide enough detail to adequately describe the problem.

This **Certificate of Compliance** and the **Banking and Recordkeeping** section are being completed in reliance upon the certification of the managing partner of my law firm that my firm is in compliance.

Yes _____ No _____ Name of Managing Partner: _____

The provisions listed above are not intended to be all-inclusive. The Delaware Lawyers' Rules of Professional Conduct should be reviewed in their entirety to make certain you are in compliance with all of their provisions.

SECTION 3 (Cont'd): To be completed by lawyers engaged in the private practice of law in Delaware.

BANKING AND RECORDKEEPING

Highlighting signifies a change to this document.

- (1) List the names of all banks or other places in which you or your firm maintain accounts which an attorney or an employee of your firm may draw on **and/or has signatory authority** and in which funds of clients or other persons not associated with your firm are placed, the title of each account, and the account number of each account. (This question relates to escrow accounts, **which include pooled escrow accounts, real estate accounts, and non-pooled escrow accounts, such as estate accounts, on which an attorney or an employee of your firm may draw on and /or has signature authority.**)

(a) Name of Bank	(b) Name of Account	(c) Account Number	(Yes or No) (d) IOLTA a/c
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

- (2) List the names of all banks or other places in which you or your firm maintain accounts (other than those listed in response to paragraph (1) above) connected with your practice of law which you or some member of your firm has power to control, draw on, or deposit in. (This question relates to firm accounts.)

(a) Name of Bank	(b) Name of Account	(c) Account Number
_____	_____	_____
_____	_____	_____
_____	_____	_____

- (3) List the address or addresses where you or your firm's books of accounts and records required by the Court to be kept by members of the Bar are located, and give the name and office address of the person or persons who supervise the preparation and maintenance of such books of accounts and records on your or your firm's behalf.

Address(es) where books of accounts and records are maintained:

- 1) _____
- 2) _____
- 3) _____

Name(s) and address(es) of person(s) who prepare(s) and maintain(s) books of accounts and records:

- 1) _____
- 2) _____
- 3) _____

Please continue to Section 4 (Assessments).